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Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic

Note verbale dated 30 May 2014 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Luxembourg to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic and, with reference to paragraph 42 of Security Council resolution 2134 (2014), has the honour to transmit herewith the report on the measures that Luxembourg has taken to implement the sanctions concerning the Central African Republic.

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Annex to the note verbale dated 30 May 2014 from the Permanent Mission of Luxembourg to the United Nations addressed to the Chair of the Committee

Report by Luxembourg to the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic

In accordance with paragraph 42 of Security Council resolution 2134 (2014), Luxembourg has the honour to provide the Security Council Committee established pursuant to resolution 2127 (2013) concerning the Central African Republic with the following information on the specific measures that it has taken to implement effectively the restrictive measures set out in paragraph 54 of resolution 2127 (2013) and paragraphs 30 and 32 of resolution 2134 (2014).

I. Measures adopted by the European Union

Under European Union law, Security Council resolutions are implemented through decisions taken by the Council of the European Union within the framework of the Common Foreign and Security Policy. Those decisions establish a legally binding framework to be implemented at the national level when Member States have jurisdiction, or at the European Union level in the case of restrictive measures that fall within the competence of the European Union. In this case, the European Union Council adopts an implementing Regulation directly applicable to operators in the European Union member States. In application of these principles, Luxembourg and the other member States of the European Union have jointly implemented the restrictive measures against the Central African Republic imposed by Security Council resolutions 2127 (2013) and 2134 (2014) as follows:

Council of the European Union Decision 2013/798/CFSP of 23 December 2013 amended by Council Decision 2014/125/CFSP of 10 March 2014

These decisions embody the commitment of the European Union to implement all the measures set out in Security Council resolutions 2127 (2013) and 2134 (2014). Decision 2013/798/CFSP provides for:

(a) An embargo on arms and related materiel;

(b) A prohibition of the provision of technical assistance, brokering services and other services, including the provision of armed mercenary personnel, related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel;

(c) A prohibition of the provision of financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance, as well as insurance and reinsurance, for any sale, supply, transfer or export of arms and related materiel or the provision of related technical assistance, brokering services and other related services;

(d) A prohibition of participation in activities the object or effect of which is to circumvent the measures imposed by the Security Council resolutions against the Central African Republic.

Decision 2014/125/CFSP expands and clarifies the measures in decision 2013/798/CFSP and provides a clear framework for the implementation of the measures contained in Security Council resolution 2134 (2014):

(a) A derogation concerning the embargo on arms and related materiel, and the prohibition of the provision of technical assistance or financing or financial assistance, in accordance with paragraph 54 of resolution 2127 (2013) and paragraph 40 of resolution 2134 (2014), including the supply of arms and related materiel intended solely for the support of or use by the Mission for the Consolidation of Peace in Central African Republic, African-led International Support Mission to the Central African Republic, United Nations Integrated Peacebuilding Office in the Central African Republic and its guard unit, the African Union-Regional Task Force, the French forces deployed in the Central African Republic, and the European Union military operation in the Central African Republic (EUFOR RCA);

(b) A ban on the entry into, or transit through, the territories of Member states of the persons designated by the Committee established pursuant to of Security Council resolution 2127 (2013), in accordance with paragraphs 30 and 31 of resolution 2134 (2014);

(c) Freezing of funds and economic resources owned or directly or indirectly controlled by the persons or entities designated by the Committee established pursuant to paragraph 57 of resolution 2127 (2013) or by any persons or entities acting on their behalf or at their orders, or by entities owned or controlled by them, in accordance with paragraphs 32 to 37 of resolution 2134 (2014).

Regulations of the Council of the European Union

Council regulations implement the elements of the above decisions which fall within the competence of the European Union under the Treaty on the Functioning of the European Union, in particular with a view to ensuring their uniform application by economic operators in all member States of the European Union.

Council regulations are binding in their entirety and are directly applicable in all States members of the European Union as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately by the Council regulations. No further national implementation provisions are necessary in this respect.

Council of the European Union Regulation (EU) No. 224/2014 of 10 March 2014 concerning restrictive measures in view of the situation in the Central African Republic

The Regulation is intended to give full effect to the arms embargo against the Central African Republic and the freezing of funds and economic resources of certain persons engaging in or providing support for acts that undermine the peace, stability or security of the Central African Republic, in accordance with Security Council resolutions 2127 (2013) and 2134 (2014), in so far as these provisions fall within the scope of the Treaty on the Functioning of the European Union.

When the Security Council or the Committee established pursuant to resolution 2127 (2013) designates a natural or legal person, entity or body, and provides a justification for the designation, the Council of the European Union will include the natural or legal person, entity or body on the list in annex I to

Regulation No. 224/2014. Updates to the restrictive measures against the Central African Republic are made through amendments to that Regulation reflecting the decisions of the Security Council or the Sanctions Committee.

Council of the European Union Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders of member States (and its subsequent amendments)

This Regulation lists the third countries whose nationals must be in possession of visas when crossing the external borders of member States and those whose nationals are exempt from that requirement. This regulation requires that nationals of the Central African Republic be in possession of a visa to cross the external borders of the European Union. Therefore, the restrictions on admission are implemented through the visa application process.

II. Measures adopted by Luxembourg

Arms embargo

In accordance with article 5 of the amended Act of 15 March 1983 on arms and ammunition, the import, manufacture, transformation, repair, acquisition, purchase, possession, stockpiling, transport, transfer, sale, export and trade of arms and ammunition are subject to authorization of the Minister of Justice. Moreover, the amended Act of 5 August 1963 concerning the import, export and transit of goods and related technology and the Grand-Ducal Regulation of 31 October 1995 on the import, export and transit of arms, munitions and equipment specifically intended for military use and related technology provide that an export authorization is required for the sale, supply, transfer or export of arms and related materiel. This applies to all items on the Common Military List of the European Union.[1] Licence applications are assessed against the relevant criteria and take into account the measures imposed by paragraphs 54 and 55 of resolution 2127 (2013) and the exemptions in paragraph 54 of resolution 2127 (2013) and paragraph 40 of resolution 2134 (2014). Where applicable, Luxembourg will ensure that notification is given to the Committee prior to any shipment of arms or related materiel, pursuant to paragraph 54 (b) of resolution 2127 (2013). To date, no such shipments have been made from Luxembourg. Article 9, paragraph 1, of the Act of 5 August 1963 regulating the import, export and transit of goods and related technology, as amended by the Act of 4 March 1998, refers to articles 231, 249 to 253 and 263 to 284 of the General Act on Customs and Excise of 18 July 1977, which criminalize violation of or attempted violation of the provisions of the aforementioned Act of 5 August 1963.

Assets freeze

Luxembourg's legislation on the financial sector establishes professional obligations and codes of conduct that must be observed at all times and in an ongoing manner by financial institutions. They must therefore exercise customer due diligence and must cooperate with the authorities, particularly the Financial Sector Monitoring Committee (CSSF). Before establishing any business relationship or conducting any transaction, institutions must verify the identity of the customer

[1] *Official Journal of the European Union*, C 69, 18 March 2010, p. 19.

or beneficial owner. Then, throughout the relationship with the customer, they must monitor transactions, including with respect to the source of funds. Any international measures or sanctions adopted by the Security Council are incorporated into Luxembourg's legislation through European Union regulations that are directly applicable under domestic law. In the event that a customer of a financial institution is targeted by an international sanction, the institution must apply the sanction by freezing the customer's assets without delay and notifying the Ministry of Finance.

Travel ban

Nationals of the Central African Republic travelling to Luxembourg require a visa to enter the territory of the European Union. The travel restrictions are implemented through the visa application process. Denials of visa applications are governed primarily by the Convention implementing the Schengen Agreement, signed on 19 June 1990; it regulates the entry of third-country nationals into the Schengen area, of which Luxembourg is a part. Article 5, paragraph 1, of the Convention sets out the conditions for entry into the territories of the Contracting Parties. Paragraph 2 of that article states that an alien who does not fulfil all of those conditions must be refused entry into the territories of the Contracting Parties. Since the individuals listed in the measures ordered by the Security Council do not meet the conditions set out in article 5, paragraph 1 (e), of the Convention, which states that the alien must not be considered to be a threat to public policy, national security or the international relations of any of the Contracting Parties, these individuals may not be granted entry into the territory of Luxembourg. Pursuant to articles 15 and 18 of the Convention, this prohibition of entry into the territory applies both to uniform short-stay visas valid for the entire territory of the Contracting Parties and to national long-stay visas. Furthermore, the Act of 29 August 2008 on the free movement of persons and immigration provides that individuals who are not allowed into Luxembourg shall be sent back.